

St. Mary Rehabilitation Working Group Meeting
10:00 – 3:00 November 15, 2006
Havre Holiday Village Mall – Havre, Montana

Welcome and Introductions:

Members Present: Randy Reed, Dave Peterson, Bud Mavencamp for Kevin Salsbery, Dolores Plumage, Paul Tuss, Gary Anderson, Max Maddox, Don Wilson, Randy Perez, John Lacey, Michael DesRosier, Marko Manoukian,

Staff Present: Larry Mires (Exec. Director), Brandi Beecher (Exec. Assistant), Paul Azevedo (DNRC-Project Coordinator)

Information included in meeting handouts:

- Agenda
- Draft October 11, 2006, SMWG Meeting Notes.
- Draft November 6, 2006, SMWG Executive Committee, conference call Meeting Notes.
- SMWG Financial Statement

Review and approval meeting notes:

- SMWG approved agenda.
- SMWG approved October 11, 2006, meeting notes.
- SMWG approved November 6, 2006, conference call meeting notes.

Scope of Work Items for 2007 Strategic Plan

- Paul A. reviewed work items for 2007.
 - Education
 - Develop a contingency plan for failure of critical infrastructure.
 - Develop plan for better communications between constituency groups.
 - Prepare for EIS/NEPA.
 - Develop proposal to make the Milk River Project self-sustaining.
- **SMWG discussed educational needs:**
 - Identify workforce skills, development and training opportunities related to rehabilitation of the St. Mary Diversion Facilities.
 - P.L. 93-638 (Indian Self Determination Act of 1975)
 - TERO (Tribal Employment Rights Ordinance)
 - Pick-Sloan Missouri River Basin Program
 - National Environmental Preservation Act (NEPA)
- Paul A. recommended the SMWG Outreach Committee work on organizing educational programs and schedule presentations for the full SMWG.
- Don W. recommended bringing a consultant that he has worked with to discuss P.L. 93-638.
- **Contingency Plan**
 - John Lacey led discussion on the need for a contingency plan for the failure of St. Mary Diversion works or other hold ups including potential litigation, and water compacting. Said the SMWG has gone for three years addressing solutions, but never monitored progress and not changing strategy.
 - SMWG discussed accomplishments of the group and some of the road blocks.

Approved Meeting Notes

- John agreed that the SWMG has made some progress, but have hit some major road blocks and recommended changing goals or strategy to overcome some of the hurdles.
 - Jeanne Whiteing clarified that Senate Bill 3563 has an emergency plan within the legislation, and emergency plan is not tied to the passage of water compacting.
 - Randy R. added that irrigators are starting to get very nervous because if the system fails it will affect their livelihood.
 - Don said he felt there were two types of failure, physical failure and political failure.
 - Randy P. agreed it is critical to develop an emergency plan for potential failure of the canal. Fort Belknap needs St. Mary's system. Sherburne dam to the drops, must be the highest priority because it is the most critical piece of infrastructure.
 - Lenny D. said BOR is very interested in developing a contingency plan. Regardless of the federal legislation, SMWG needs to get started working on the plan. Recommended developing a committee and also need to include Blackfeet in the discussion of working on a contingency plan.
 - Larry suggested developing two separate committees for political and physical failure.
 - Paul T. said we may need to have more education on the political failure.
 - John L said he pays \$6-\$9 per acre for Operations and Maintenance for the St. Mary project, but the project is being held up by the political process of water compacting, etc.
 - SMWG members volunteered to serve on the Contingency Plan Committee. Randy Perez recommended Matt McCann. (Matt was not at the meeting but will be consulted.)
 - The Contingency Plan Committee will be made up of the following SMWG members: John Lacey, Randy Reed, Max Maddox, Randy Perez, Don Wilson, Dave Peterson.
 - DNRC (John Sanders & Mike Dailey) and USBR agreed to serve as resources for the committee.
- **Develop plan for better communications between constituency groups.**
 - Dolores said she feels the SMWG doesn't get enough information on Compacting progress, on developing conservancy district, and from Tribal Councils. The SMWG needs good information before they approach their constituents. Said she feels SMWG has failed in getting enough information to County's on the Hi-Line, and instead have been focused on national exposure. Dolores said she is confused about the relationship between the SMWG and compacting issues. The SMWG has been told they don't have anything to do with compacting, but the project is contingent on compacting.
 - Randy R. said the SMWG needs to stay connected to local constituents.
 - Max said the SMWG must be honest with each other. Compacting and SMWG are two different things, but they are tied together. He said he experienced some disappointments. For example, everyone agreed on the legislative package during the conference call, but when it came to the Senate Hearing testimony there was a change of position. Now, the SMWG is at the mercy of water rights, which SMWG has no control over. He feels SMWG is not getting closer to fixing the system, but the system is getting closer to failure. He said people need to be up front, if they know they don't agree with something, speak up. Added that if the system fails, it will be fixed and the irrigators will be billed, and they can not afford it.
 - Marko said responsibility lies on the individuals of SMWG to educate themselves on some of the issues. Attend the compacting public meetings, ask questions, etc.
 - Gary A. felt first year the SMWG had good local level support, second year the groups focused moved to State level, now it is at the federal level, but the level of local support hasn't moved forward with group.

Approved Meeting Notes

- Kay Blatter said the SMWG meeting minutes were sent out to the Milk River Joint Board members and he received feedback that the minutes were helpful.
- Don W. said periodic updates on compacting issues were a good idea.
- Paul A. will have Judy Edwards call each SMWG member to discuss communications issues

• **Prepare for Environmental Impact Statement**

- Paul A. said there is a public process required by the EIS that the SMWG needs to be involved in.
- John Sanders suggested moving EIS/NEPA under education.
- Brent Esplin (Reclamation) said Reclamation, State and Blackfeet have tentatively agreed to meet on November 28 at 1 p.m. in Great Falls (location to be determined) to discuss the NEPA/EIS process. Added that BOR is in the process of preparing for the EIS so they are ready when the funding is appropriated. Hopes to develop a work plan and timeframe and to continue dialog developing a rehabilitation plan. Brent invited SMWG members to attend NEPA/EIS meeting in Great Falls if they would like.

Report from Senator Burns Office

- Sara Converse of Senator Burns' office said all State offices will be closed by mid-December.
- Sara said the Senate Energy and Water Committee has not met. Congress is in session this week, then will break next week for Thanksgiving will go back into session in December. Expects to go into a Continuing Resolution that will be addressed in February 2007. Very likely the legislation will have to be reintroduced in the 110th Congress. Senator-elect Tester is tentatively on the Energy and Water Committee.
- Sara said Conrad Burns wanted to congratulate SMWG on how far SMWG has come.
- Gary questioned the status of the House Bill. Sara said the bill was not introduced in Committee so it will have to be reintroduced during the next session.

Report from Senator Max Baucus Office

- Kristina Davis reported Senator Baucus is behind the project as well as Senator-elect Tester.
- It is a lame duck session, so will be difficult to move the authorization forward.
- Suggested creating landmarks that SMWG could recognize how much that has been accomplished.

2007 State Legislative Session

- Paul A. said DNRC has requested \$300,000 Resource Development grant for the SMWG. It will go before State Legislature for approval. May need SMWG members to testify for the grant approval.
- House Bill 2 includes funding for DNRC to continue Paul A. and Mike Daily's involvement of the project.
- Paul A. said the SMWG may want to ask for a joint House Senate Resolution during the upcoming Montana Legislative Session to show support for the St. Mary Project.
- Paul T. questioned if there are any funds for the SMWG within the RDGP grant. Paul A. said he believed there was latitude for the SMWG within the budget categories
- Kay Blatter reported the Milk River Joint Board put in for \$100,000 RDGP Grant application to address of Drop 3. This request will also require Legislative approval.
- Larry reported Federal budget is bleak. What was accomplished to this point is incredible. Federal budget changes minute by minute.

Approved Meeting Notes

- Larry said the completion of the St. Mary/Milk River project will require more state and local support and Montana currently has a budget surplus. Larry proposed going to the Governor to request \$50 million out of the surplus to be directly earmarked for the St. Mary Project. State has already appropriated \$10 million.
- Paul A. agreed that a larger cost-share would be needed but, noted it has to be a local/state cost-share. The State has already committed \$10 million to the project. He cautioned that an additional request to the Governor would be better received if it included a real commitment of local dollars.
- Randy Reed said most Reclamation cost shares are 50-50. The contract holders will be required to pay for the rehabilitation and there will always be a capital payment and operations and maintenance payment so there will be a required private match.
- Will Hammerquist suggested bringing examples of successes of other states using the same strategy to leverage federal funds.
- Larry and Randy R. will develop a proposal for the State of Montana to request additional cost-share dollars from the state.
- Paul T. suggested SMWG proceed with caution and needs to ensure the creditability continues with Governor's office.
- SMWG approved Larry and Randy Reed to approach the Governor's office to request additional funding. Dolores and Gary voted sideways.

Report on Executive Director Position

- Randy R. reported the Executive Committee met earlier, analyzing the three options proposed by Larry Mires.
 - **Option 1:** Extend current contract with Two Rivers for Executive Director serving 90% of time with SMWG, 10% of time with Two Rivers.
Salary \$50,000 to \$60,000
 - **Option 2:** Bear Paw Development would hire an Executive Director for SMWG. Using BPD's current employee benefits with salary \$50,000, plus benefit package, totaling \$71,411.
 - **Option 3:** Establish SMWG office. Estimated start-up costs of \$30,000-\$45,000, plus employee salaries.
- Larry reported that serving as the Executive Director is taking more time than half time. Feels SMWG has reached a point that they need a full time Executive Director.
- Executive Committee recommended option 1, but would like to review budget figures before extending the contract.
- SMWG approved by consensus for the Executive Committee to negotiate a contract with Larry using option one.

Reclamation's MT Area Office Budget for 2009

- Lenny Duberstein of USBR said their office is not prepared to give a presentation on the 2009 budget.
- Lenny suggested having SMWG talk to Randy R., Paul A. or Larry on what they would like to have discussed about the budget and BOR will prepare a presentation for the SMWG.

Draft Proposal to Make the Milk River Project Self-Sustaining

- Larry discussed the need to find a way to capture additional revenue to support the operation and maintenance of the Milk River Project. He and Randy worked with Representative Musgrove and Legislative Services to draft a placeholder/strawman concept of creating a revenue generating entity in the basin.

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- Larry said the material is only a draft concept, to create a revenue generating entity to spread the cost of the rehabilitation to water users, other than current irrigators.
- Larry explained the procedure of the placeholder. If concept of developing a revenue generating entity is something the SMWG would like to pursue, the SMWG needs to get input from constituents, and have Representative Musgrove develop the strawman into a bill, which could be introduced during 2007 Legislative session if acceptable to SMWG.
- Ruben Horseman said the Tribes promoted a similar process in the past, but they were told it couldn't be done.
- Randy said revenue generating entity would be only for non-tribal land.
- Jeanne said the Tribes could not be part of the State created entity. Essentially the concept is setting up a taxing entity and it could not tax within Reservations. She said the draft legislation creates problems developing hydropower on the Reservation in that it appears to give this power to the Milk River Water and Power Authority, whereas the Tribe has actively sought to insure that the Tribe is the entity to develop hydropower on the Reservation.
- Randy said there are others who benefit from the St. Mary's water other than irrigators- recreation, fisheries, wetlands, etc. and this concept would be a way to generate revenue from those users. Over a period of time the project has turned into a multi-use project. Irrigators have been paying the bill for the project for years, but the reality is it has turned into a multi-use project and irrigators are at their financial end.
- Dolores stated she felt that the document violated the process agreement. It was not defined on the SMWG October agenda. She said they need more education on the concept before anything can be approved.
- Gary asked Paul A. to explain the need. Paul A. said a similar discussion is happening in communities all over the Western US. Older single use irrigation projects don't have the revenue to undertake major rehabilitation efforts. These projects provide benefits to their local communities, but the cost of providing the benefits is borne almost exclusively by irrigators'.
- Larry said mid-February is the final date to introduce legislation to the 2007 State Session. It's a matter of getting the concept on paper and developing a revenue generating entity.
- Larry suggested sitting down and taking the time to discuss the pros and cons of the concept. Then need to work out the draft collectively.
- Randy P. asked if an attorney will assist with the drafting. Larry said legal council should be considered during the drafting process.
- Dolores talked about the projected costs for the County's. Will it be an advantage for the water users?
- Larry will contact all SMWG members to collect concerns on the placeholder.
- Jeanne suggested not releasing the placeholder in its current form to the public because there are several issues that will create problems and may kill the concept before it is introduced.
- Dolores said she felt the placeholder is really going to backfire and it needs to be reconsidered.
- Gary said Representative Musgrove asked him about the conservancy bill that may be submitted and he didn't know what he was talking about. He was unaware of a conservancy bill that the SMWG was working on and felt the SMWG needs to have more communications and education.
- Max pointed out that it is an unofficial draft and suggested the SMWG analyze it and try to develop it into a workable draft.
- SMWG members will review the unofficial draft (LC 0630) and prepare recommendations.

Executive Committee Recommendation

- SMWG Executive Committee recommended adding Randy Middlebrook, Program Manager of Critical Infrastructure for the Montana Homeland Security office as an Ex Officio Member of the SMWG
- Don W. asked what the role of an Ex Officio Member was. Paul A. said that according to the Group's Process Agreement, Ex Officio Members will serve as a sounding board and provide Basin Members with information and advice on technical, administrative and process matters.
- SMWG approved adding Randy Middlebrook as an Ex Officio member.

Executive Director's Report

- Larry reported that the SMWG 2007 appropriations request will most likely be a Continuing Resolution into the 110th Congress. There will probably be no action on the House Bill because it has not been introduced in Committee.
- Larry said the SMWG will have to reintroduce similar authorization legislation.
- Larry offered the siphon trailer for the parade of lights in the Hi-Line communities.

Financial Report

- Paul T. presented the financial report pointing out some recent significant contributions including Hill County \$8,500, City of Havre \$13,000 and \$1,000 from Glasgow Chapter of Walleyes Unlimited.
- Paul asked the SMWG to think about changing the fiscal year to follow the calendar year.
- SMWG approved by consensus, changing the SMWG fiscal year to a calendar year, instead State fiscal year.
- Gary asked about holding a SMWG Fundraising committee meeting, to discuss a follow up fund raising letter.

Joint Board of Control Representation

- Kay Blatter reported that the Milk River Joint Board of Control is represented by Kevin Salsbery, Max Maddox, John Lacey.
- John Lacey said he is involved with Milk River Joint Board of Control, but he doesn't always agree with them.

St. Mary's Operation Report

- Ed H. of USBR reported a storm dumped 2-10 inches of rain in Babb area that created some concern, but it did not cause any damage that he was aware of.
- Inflows to Sherburne Reservoir peaked around 7,000 cfs and it rose 14.5 feet. The operations were being monitored; however, there wasn't any operations adjustments required.
- Fresno is at 43,000 acre feet or about 112% of normal.
- Nelson is at 84% of normal.
- USBR completed some grout work on the dam face and plans to do some maintenance on the drops. The work will include patching some of the holes that are above water, with concrete.

Working Group Member Comments

- Paul A. announced John Tubbs has accepted a new position as Administrator of within DNRC's Water Resources Division. He felt that in the long term John's move will be good for SMWG project, but John may be a little scarce while he goes through the transition.

Approved Meeting Notes

- John Lacey said need to have Judy involved during the discussions of additional education.
- Don W. reported the Blackfeet are working with Montana Compacting Commission, which sunsets in 2009. Blackfeet hopes to have the water compacting completed at the state level during the 2007 session. Only obstacle that could delay the compact is the St. Mary project. Public perspective is that someone is taking something from the Blackfeet Tribe and there is no repayment. He's working to dispel that concept with public information. Also suggested, if SMWG has questions, just ask him.
- John Lacey asked if the Blackfeet Compact is still requesting 50,000 acre feet? Don said it is still at 50,000 acre feet.
- Max asked Don where the Tribe stands on IJC? Don said they are waiting to see what happens with compact.
- Randy R. asked if Don felt the Blackfeet people could come to a decision that is firmly grounded in reality. Don said he thinks if it went to a vote today, it would probably fail, but it is his task to get the education out to the general public and get it passed. The confines of the canal, is one of the restrictions that is being discussed.
- Dolores commented that the SMWG needs to work together, needs to have correct timing and needs to use the resources at the table.
- Gary asked if there is anyway to develop another timeline? Paul A. said he is waiting to develop the time line after Congressional action.
- Paul T., Paul A., Randy R., and Larry will begin developing budget.

PUBLIC COMMENT

- Ruben Horseman said the LC 0630 was crafted, not just developed.
- Jay Weiner encouraged the SMWG not to get bogged down in the LC, but to develop what they would like to see.
- Doug Stuart suggested not using the federal people to educate the new Congress, but to travel to Washington D.C. and educate the new Congress. Also believes the \$50 million request from the State is doable and complemented the SMWG on their progress.

Summary of Agreements

- SMWG approved Larry and Randy Reed to approach the Governor's office to request additional funding. Dolores and Gary voted sideways.
- SMWG approved by consensus for the Executive Committee to negotiate a contract with Larry using option one.
- SMWG approved adding Randy Middlebrook as an Ex Officio member.
- SMWG approved by consensus, changing the SMWG fiscal year to a calendar year, instead of the State fiscal year.

Summary of Action Items

- Paul A. recommended the SMWG Outreach Committee work on educational programs and schedule presentations for the full SMWG.
- Contingency Plan Committee: John Lacey, Randy Reed, Max Maddox, Randy Perez, Don Wilson, Dave Peterson, Matt McCann.
- Paul A. will have Judy Edwards call each SMWG member to discuss communications issues.
- Larry and Randy R. will develop a proposal for the State of Montana to request additional cost-share dollars from the state.
- SMWG members will review the unofficial draft (LC 0630) and prepare recommendations.
- Larry will contact all SMWG members to collect concerns on the placeholder.

Approved Meeting Notes

- Paul T., Paul A., Randy R., and Larry will begin developing budget.

Next Meeting

- SMWG meeting December 19th, Great Falls
- December 20, Blackfeet Public Compact commission meeting in Great Falls.